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ORIGINAL FILED
DEC - 2 2009
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ADR

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

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| RICHTEK TECHNOLOGY CORPORATION and RICHTEK USA, INC.<br><br>Plaintiffs,<br><br>v.<br><br>uPI SEMICONDUCTOR CORPORATION, ADVANCED MICRO DEVICES, INC., SAPPHIRE TECHNOLOGY LIMITED, DIAMOND MULTIMEDIA, INC. and XFX TECHNOLOGY, INC.,<br><br>Defendants. | Case No. C09 05659 MEJ<br><br>**COMPLAINT FOR PATENT INFRINGEMENT AND TRADE SECRET MISAPPROPRIATION**<br><br>**DEMAND FOR JURY TRIAL** |

Plaintiffs Richtek Technology Corp. ("Richtek Technology") and Richtek USA, Inc. ("Richtek USA") (collectively "Plaintiffs" and/or "Richtek") hereby complain against defendants uPI Semiconductor Corporation ("uPI"), Advanced Micro Devices, Inc. ("AMD"), Sapphire Technology Limited ("Sapphire"), Diamond Multimedia, Inc. ("Diamond") and XFX Technology, Inc. ("XFX") (collectively "Defendants") and allege as follows

## PARTIES

1. Plaintiff Richtek Technology is a corporation organized and existing under the laws of Taiwan that maintains its principal place of business at 5F, No. 20, Tai Yuen Street, Chupei City, Hsinchu, Taiwan R.O.C. 30288.

2. Plaintiff Richtek USA is a corporation organized and existing under the laws of California that maintains its principal place of business at 1210 South Bascom Avenue, San Jose, CA 95128. Richtek USA is a wholly owned subsidiary of Richtek Technology.

3. Upon information and belief, Defendant uPI is a corporation organized and existing under the laws of Taiwan, having a principal place of business at 7F. No. 2, Gongye East 3rd Rd., Hsinchu Science Park, Hsinchu 300, Taiwan R.O.C. and is doing business in this judicial district.

4. Upon information and belief, Defendant AMD is a corporation existing under the laws of Delaware having its principal place of business at One AMD Place, Sunnyvale, CA 94088-3453 and is doing business in this judicial district.

5. Upon information and belief, Defendant Sapphire is a corporation existing under the laws of Hong Kong with its principal place of business at Unit 1908 – 1919, 19/F., Tower 2, Grand Central Plaza, 138 Shatin Rural Committee Road, Shatin, New Territory, Hong Kong and is doing business in this judicial district.

6. Upon information and belief, Defendant Diamond is a corporation incorporated under the laws of California with its principal place of business at 9650 De Soto Avenue, Chatsworth, CA 91311 and is doing business in this judicial district.

7. Upon information and belief, Defendant XFX is a corporation incorporated under the laws of California with its principal place of business at 1931 Lynx Place, Ontario, CA 91761 and is doing business in this judicial district.

## JURISDICTION AND VENUE

8. This is an action for patent infringement arising under 35 U.S.C. §§ 271, *et seq.* and for trade secret misappropriation under California Civil Code § 3426.

9. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a). Supplemental subject matter jurisdiction is based on 28 U.S.C. § 1367.

10. Defendants are subject to personal jurisdiction in this district because they are doing business in this district, alleged acts of infringement and trade secret misappropriation have occurred in this district, and Defendants are residents of this district pursuant to 28 U.S.C. § 1391 (c).

11. Venue is proper in this district under 28 U.S.C. § 1391(b)-(d) and 28 U.S.C. § 1400 (b). Plaintiff Richtek USA and Defendant AMD both have their corporate headquarters located in this district.

## BACKGROUND

### (Patent Infringement)

12. Richtek is world-wide leader of power management integrated circuit ("IC" or "chip") solutions. Such solutions include Richtek's direct-current-to-direct current (DC-DC) power controllers, such as Buck DC/DC controllers and Multi-Phase Pulse Width Modulation (PWM) Controllers ("Richtek's Power Controllers"), which incorporate Richtek's proprietary and patented technologies. These types of DC-DC controllers convert a high DC power to a low DC power such that devices can use the low DC power.

13. Richtek is the owner of all right and title to United States Patent No. 7,315,190, ("the '190 patent") entitled "PWM Circuit and PWM Integrated Circuit for Use in PWM Circuit." A certified copy of the '190 patent is attached as Ex. A.

14. Richtek is the owner of all right and title to United States Patent No. 6,414,470, ("the '470 patent") entitled "Apparatus and Method for Balancing Channel Currents in a Multi-Phase DC-to-DC Converter." A certified copy of the '470 patent is attached as Ex. B.

15. Richtek is the owner of all right and title to United States Patent No. 7,132,717, ("the '717 patent") entitled "Power Metal Oxide Semiconductor Transistor Layout With Lower Output Resistance and High Current Limit." A certified copy of the '717 patent is attached as Ex. C.

16. The '190, '470 and '717 patents (collectively "Richtek's patents") disclose innovative circuit designs, layouts, and methods that regulate power efficiently for many modern electronic devices, including, for example, stand-alone computers, laptops, hand-held devices, among others.

17. On information and belief, Defendant uPI develops, markets, and/or sells power controllers and products containing them including evaluation boards or cards in the United States and

in this district. These include at least uPI's Single Buck Controllers and Multiple Phase Buck Controllers ("uPI's Power Controllers"). Each of uPI's Power Controllers and products containing them convert a high DC power to a low DC power using circuit designs, layouts, and methods that directly and/or indirectly infringe Richtek's patents.

18. On information and belief, Defendant AMD acquired ATI Technology ULC in 2006, which became part of AMD's Graphics and Media Processor Division. This division designs, develops, tests, markets, offers for sale, and/or sells the ATI Radeon® HD graphics processor units (GPUs) and related graphics cards or boards ("AMD's Radeon® HD graphics cards") in the United States and in this district that incorporate at least uPI's Power Controllers and directly and/or indirectly infringe Richtek's patents.

19. On information and belief, Defendants Sapphire, Diamond, and XFX manufacture, import, offer for sale, sell, and/or market AMD's HD graphics cards in the United States and in this district that incorporate at least uPI's Power Controllers and directly and/or indirectly infringe Richtek's patents.

20. Defendants are on notice of Richtek's patents and their infringement of them at least by way of this Complaint and, on information and belief, continue to use the inventions claimed in Richtek's patents without authorization. On information and belief, Defendants have been and are currently directly infringing Richtek's patents through its use, testing, importation, offer for sale and/or sale of cards and/or boards and related products employing the circuit designs, layouts, and methods claimed in Richtek's patents including but not limited to AMD's Radeon® HD graphics cards or related boards incorporating uPI infringing Power Controllers.

21. On information and belief, Defendant uPI contributes to and/or induces infringement of Richtek's patents by designing, soliciting, promoting, testing, marketing, offering for sale, or selling its power controllers for use in products containing them including but not limited to AMD's Radeon® HD graphics cards or related boards that infringe Richtek's patents.

22. On information and belief, Defendant AMD contributes to and/or induces infringement of Richtek's patents by qualifying uPI's power controllers for incorporation and use in AMD's Radeon® HD graphics cards or related boards and endorsing, encouraging, and authorizing board makers

including but not limited to Defendants Sapphire, Diamond, and XFX to manufacture, import, offer to sell, and sell after importation into the United States and in this district AMD's Radeon® HD graphics cards or related boards with uPI's Power Controllers that infringe Richtek's patents.

23. On information and belief, Defendants Sapphire, Diamond, and XFX contribute to and/or induce infringement of Richtek's patents by offering for sale, selling, or incorporating AMD's Radeon® HD graphics cards or related boards with uPI's Power Controllers into other devices such as stand-alone computers that infringe Richtek's patents. On information and belief, uPI, AMD, Sapphire, Diamond, and XFX have known or should have known that their actions would cause direct infringement of Richtek's patents and did so with specific intent to encourage direct infringement.

**(Trade Secret Misappropriation)**

24. Richtek has invested a substantial amount of time, money, personnel, engineering, testing, marketing and customer interaction to create Richtek's proprietary and trade secret information for the design of power management IC solutions including power controllers for its customers in the United States and in this district.

25. Richtek's "design-in" process is unique for each customer and plays an important role in Richtek's success as a leading provider of power management IC solutions. For each customer, the design-in process involves Richtek using its research, design, development and testing capabilities to provide custom tailored solutions for its customers. Richtek goes through a number of stages for each customer including: market survey, product definition to specify solutions, circuit design, physical design and layout, IC fabrication and processing, sample release and verification and reliability testing, and mass production.

26. At each stage, Richtek invests significant expense, time and effort to design and develop proprietary solutions to meet the specific needs of customers. Richtek's design-in process is time intensive and generally takes well over a year to design and develop power controllers from start to mass production for customer products, especially for a new customer and product.

27. Richtek, through great expense, time, and effort, has developed proprietary information through significant interaction with its customers. For example, Richtek has developed valuable proprietary trade secret information for each of its customers including, but not limited to: market survey

data, customer contacts, product definitions with tailored solutions, product roadmaps, pricing strategies, customer feedback and verification data.

28. Richtek's proprietary and trade secret information also includes, but is not limited to, circuit schematics and related design files and libraries, circuit simulation data and SPICE analysis, physical circuit design layout and related graphic layout files (*e.g.*, GDS files) and command files and libraries, reference designs for fabricating semiconductor devices according specific foundry processes, masks for fabricating multi-layer circuits and connections on wafers, evaluation boards and related components for testing sample releases, verification, reliability, and debugging testing data and methodologies and feedback from application and field application engineering (FAE) testing.

29. Each of these items of proprietary technical information includes trade secrets unique for each customer. Richtek has made reasonable efforts under the circumstances to protect the confidentiality of its trade secrets. Richtek's confidential proprietary and trade secret information derives independent economic value from not being generally known to the public, who would obtain economic value from its disclosure or use. Knowledge of this proprietary and trade secret information by a competitor would allow the competitor to quickly design and develop power management IC components that would unfairly compete directly against Richtek for its customers and market share.

30. Richtek's trade secrets derive independent economic value, actual or potential, from not being generally known to the public, or to other entities and persons, who can obtain value from their disclosure or use. These trade secrets provide Richtek with competitive advantages over those who do not know them. Disclosure or use of Richtek's business and technical secrets would result in unjust commercialization of Richtek's design-in process unique for individual customers.

31. Richtek has made, and continues to make, reasonable efforts to secure the secrecy of its proprietary and trade secret information, which includes technical and business trade secrets by, among other things, requiring all employees to execute employment and non-disclosure agreements, and by restricting access to proprietary and trade secret information only to employees who need to know them.

32. Defendants uPI and AMD improperly acquired Richtek's proprietary and trade secret information through certain Richtek employees who knew or had reason to know that such information belonged to Richtek, was acquired by improper means, and were under a duty to keep Richtek's

proprietary and trade secret information confidential. uPI and AMD knew or reasonably should have known that these employees owed a duty to Richtek to maintain Richtek's proprietary and trade secret information confidential. Nevertheless, on information and belief, uPI and AMD obtained this information through improper means from at least Richtek's former employees who disclosed Richtek's proprietary and trade secret information to uPI and AMD without the express or implied consent of Richtek. uPI and AMD are now using Richtek's proprietary and trade secret information in connection with their own business activities including those related to power controllers and products containing them, including but not limited to, AMD's Radeon® HD graphics cards or related boards.

33. On information and belief, uPI willfully and maliciously misappropriated Richtek's proprietary and trade secret information by improper means and used Richtek's proprietary and trade secret information to: (i) establish and operate an IC company; (ii) avoid the necessary steps to design-in power controllers usually required by an IC company developing components, and (iii) compete directly and unfairly against Richtek's Power Controllers. uPI's misappropriation and misuse of Richtek's proprietary and trade secret information is continuing and poses the additional threat of the unauthorized disclosure of those trade secrets to others.

34. On information and belief, uPI selectively approached certain Richtek employees and improperly solicited them to take Richtek's confidential and proprietary documents, files and information containing Richtek's trade secrets and to disclose them to uPI knowing these materials were proprietary and contained trade secret information of Richtek.

35. Two such Richtek employees improperly solicited were James Chang and Amanda Dai, Richtek's former Marketing Project Manager and Marketing Manager, who were responsible for developing the U.S. market for Richtek's power controllers including Buck DC/DC controllers and Multi-Phase Pulse Width Modulation (PWM) Controllers. Chang and Dai had intimate, substantial, and significant contacts with all of Richtek's U.S.-based customers and had knowledge of Richtek's related proprietary and trade secret information including each customer's specific product requirements and solutions.

36. On information and belief, uPI willfully and maliciously solicited Chang and Dai to divulge Richtek's trade secrets to uPI to allow uPI to develop power controllers for customers without

expending the substantial resources and time necessary to develop such products on their own.

37. On information and belief, uPI willfully and maliciously solicited ten additional Richtek employees to misappropriate Richtek's proprietary and trade secret information. These employees were important and integral to Richtek's design and development of its IC products including Richtek's power controllers. These Richtek employees include: (1) YP Huang (Director of R&D), (2) Jacky Lee (Layout Engineer), (3) Aje Tu (Manager Application Engineering), (4) Eric Huang (IC circuit design engineer), (5) George Chou (IC circuit design engineer), (6) Ivy Yang (Engineer), (7) Stone Hong (Senior Engineer), (8) Owen Xu (Application Engineer), (9) Ken Wang (Deputy Manager Special Project Sales), and (10) JC Chen (R&D Manger).

38. These employees had significant responsibilities for each of the design-in stages for Richtek's power controllers including customers in the U.S. and, in particular, the IC circuit design and physical layout, fabrication, sample release and verification and reliability testing, and mass production stages. On information and belief these former Richtek employees had access to, knowledge of, and/or used Richtek's proprietary and confidential circuit schematics and related design files and libraries; circuit simulation data and SPICE analysis; physical circuit design layout and related graphic layout files (*e.g.*, GDS files) and command files and libraries; and reference designs for fabricating semiconductor devices according to specific foundry processes in order to have sample releases done quickly for uPI.

39. On information and belief, uPI willfully and maliciously solicited all twelve Richtek employees so that uPI could obtain improperly Richtek's proprietary and trade secret information, knowing that such information was proprietary to Richtek, and used such proprietary and trade secret information to at least bring to market uPI's power controllers significantly quicker than it would normally require.

40. Upon information and belief, uPI's Power Controllers, circuit designs, layouts, and operation are nearly identical or substantially similar to Richtek's proprietary circuit designs, layouts, and operation for its power controllers. On information and belief, the substantial similarity or likeness to Richtek's circuit designs, layouts, and operation could not have been achieved without misappropriating and using Richtek's proprietary and trade secret information including but not limited to Richtek's circuit schematics and layouts.

41. On information and belief, uPI willfully and maliciously misappropriated and used Richtek's trade secrets in order to develop, make, and sell its power controllers with the same or substantially the same circuit designs, layouts, and operation in Richtek's power controllers.

42. On information and belief, uPI willfully and maliciously misappropriated and unlawfully disclosed Richtek's proprietary and trade secret information to AMD in order to develop uPI's power controllers and be qualified by AMD for using them in Radeon® HD graphics cards or related boards. On information and belief, AMD willfully and maliciously misappropriated Richtek's proprietary and trade secret information by encouraging, endorsing, and authorizing board makers including but not limited to Sapphire, Diamond, and XFX to use uPI's power controllers to make, import, and sell AMD's Radeon® HD graphics cards or related boards in the United States and this district because AMD knew or should have known that the solutions provided by uPI's power controllers contained, used, or were derived from Richtek's proprietary and trade secret information and that such information was proprietary to Richtek and was obtained without Richtek's authorization.

43. Defendants uPI and AMD develop, test, market, offer for sale, import, and sell in the United States and in this district certain power controllers and products containing them including but not limited to AMD's Radeon® HD graphics cards and related boards, which knowingly use Richtek's proprietary and trade secret information and constitute misappropriation of Richtek's trade secrets that has caused and continues to cause substantial and irreparable injury to Richtek.

44. Defendants uPI and AMD knew or reasonably should have known that Richtek's business and technical trade secret information was proprietary and confidential. Nevertheless, on information and belief, Defendants uPI and AMD willfully and maliciously misappropriated Richtek's proprietary and trade secret information through improper means and without the consent of Richtek. Defendants uPI and AMD are now using Richtek's proprietary and trade secret information in connection with the development, marketing, manufacture and sale of their power controllers and products containing them in the United States and in this district, including but not limited to AMD's Radeon® HD graphics cards and related boards.

**COUNT ONE**

**(Infringement of U.S. Patent No. 7,315,190 against all Defendants)**

45. Plaintiffs repeat and re-allege Paragraphs 1 through 44 above.

46. All Defendants directly and/or indirectly infringe the '190 patent by the use, testing, offer for sale, or sale of certain power controllers and products containing them, including but not limited to AMD's Radeon® HD graphics cards or related boards, in this district and elsewhere in the United States.

47. As a result of Defendants' infringement, Richtek has been damaged and Defendants are liable to Richtek for damages pursuant to 35 U.S.C. § 284.

48. Defendants' infringement of the '190 patent has caused Richtek irreparable harm, and unless preliminarily and permanently enjoined, will continue to cause Richtek irreparable harm.

49. Defendants' infringement of the '190 patent has been willful.

50. As a result of at least Defendants' willful infringement this is an exceptional case pursuant to 35 U.S.C. § 285.

**COUNT TWO**

**(Infringement of U.S. Patent No. 6,414,470 against all Defendants)**

51. Plaintiffs repeat and re-allege Paragraphs 1 through 44 above.

52. All Defendants directly and/or indirectly infringe the '470 patent by the use, testing, offer for sale, or sale of certain power controllers and products containing them, including but not limited to AMD's Radeon® HD graphics cards or related boards, in this district and elsewhere in the United States.

53. As a result of Defendants' infringement, Richtek has been damaged and Defendants are liable to Richtek for damages pursuant to 35 U.S.C. § 284.

54. Defendants' infringement of the '470 patent has caused Richtek irreparable harm, and unless preliminarily and permanently enjoined, will continue to cause Richtek irreparable harm.

55. Defendants' infringement of the '470 patent has been willful.

56. As a result of at least Defendants' willful infringement this is an exceptional case pursuant to 35 U.S.C. § 285.

**COUNT THREE**

**(Infringement of U.S. Patent No. 7,132,717 against all Defendants)**

57. Plaintiffs repeat and re-allege Paragraphs 1 through 44 above.

58. All Defendants directly and/or indirectly infringe the '717 patent by the use, testing, offer for sale, or sale of certain power controllers and products containing them, including but not limited to AMD's Radeon® HD graphics cards or related boards, in this district and elsewhere in the United States.

59. As a result of Defendants' infringement, Richtek has been damaged and Defendants are liable to Richtek for damages pursuant to 35 U.S.C. § 284.

60. Defendants' infringement of the '717 patent has caused Richtek irreparable harm, and unless preliminarily and permanently enjoined, will continue to cause Richtek irreparable harm.

61. Defendants' infringement of the '717 patent is and has been willful.

62. As a result of at least Defendants' willful infringement this is an exceptional case pursuant to 35 U.S.C. § 285.

**COUNT FOUR**

**(Misappropriation of Trade Secrets against uPI and AMD)**

63. Plaintiffs repeat and re-allege Paragraphs 1 through 44 above.

64. Defendants uPI and AMD have improperly misappropriated Richtek's valuable trade secrets.

65. Each of the alleged acts of misappropriation by Defendants uPI and AMD was, on information and belief, done willfully and maliciously.

66. As a direct result of the misappropriation of Richtek's trade secrets, Defendants uPI and AMD have been unjustly enriched and Richtek has sustained damages in an amount to be proven at trial.

67. Richtek has also suffered irreparable harm as a result of uPI and AMD's misappropriation and will continue to suffer irreparable injury unless uPI and AMD, and their officers, agents, employees and all persons acting in concert with it, are preliminarily and permanently enjoined from engaging in such further acts of misappropriation or enjoying the fruits of their misappropriation.

**PRAYER FOR RELIEF**

WHEREFORE, Richtek prays for judgment:

1. that Defendants uPI, AMD, Sapphire, Diamond, and XFX infringe one or more claims of the '190, '470 and/or '717 patents;

2. that Defendants uPI, AMD, Sapphire, Diamond, and XFX be preliminarily and permanently enjoined from any further infringement;

3. that Defendants uPI, AMD, Sapphire, Diamond, and XFX are liable for monetary damages for such infringement, no less than a reasonable royalty;

4. of an award for enhanced damages up to three times actual damages;

5. that this is an exceptional case and that Richtek be awarded its attorneys fees;

6. that Defendants uPI and AMD have misappropriated Richtek's trade secrets;

7. that Defendants uPI and AMD are liable for monetary damages adequate to compensate Richtek for misappropriation of its trade secrets;

8. of an award of exemplary damages for any misappropriation of Richtek's trade secrets found to be malicious and willful;

9. that Defendants uPI and AMD be preliminarily and permanently enjoined from making, using, selling, offering for sale or advertising any products that embody or were produced using one or more of Richtek's trade secrets;

10. of an award of attorney's fees for the willful and malicious misappropriation of Richtek's trader secrets

11. that Richtek be awarded it's costs and expenses incurred in this case; and

12. granting such other and further relief as the Court may deem just and appropriate.

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Dated: December 2, 2009

Respectfully submitted,

ALSTON + BIRD LLP

By: [signature]

One of the Attorneys for Plaintiffs
RICHTEK TECHNOLOGY CORP. and RICHTEK USA, INC.

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**DEMAND FOR JURY TRIAL**

Plaintiffs Richtek hereby demand a jury trial for all issues so triable.

Dated: December 2, 2009

Respectfully submitted,

ALSTON + BIRD LLP

By: /s/ Michael Kim

One of the Attorneys for Plaintiffs
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